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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,927	02/10/2004	Gene M. Brade	7232.3001.001	1410

7590 08/16/2005
REISING, ETHINGTON BARNES,
KISSELLE & LEARMAN, P.C.
ROBERT L. FARRIS
5291 Colony Drive North
Saginaw, MI 48603

EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,927

Applicant(s)

BRADE, GENE M.

Examiner

Christopher J. Novosad

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-12 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 050704.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 10 is objected to because of the following informalities:

In line 3, the recitation "transmit" should be corrected to --transmits-- to correct a grammar error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 5, 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "square pipe" in claims 4 and 5, line 2 and in claim 11, lines 21 and 22 is indefinite and should be corrected to --square in cross-section pipe--.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. in view of Beeley.

Lewis et al. show an animal stall soil agitator (Fig. 3) comprising:

a mounting plate assembly 24 adapted to be pivotally connected to a tractor loader boom via pin, unnumbered, on member perpendicular to member 10 for pivotal movement about a loader boom axis (unnumbered; about the pin) that is horizontal and generally transverse to a direction of forward movement of the tractor loader;

an elongated frame assembly 46 with an inboard frame end (unnumbered) attached to the mounting plate assembly 24 and an outboard frame end (unnumbered) that extends laterally outwardly to one side of the tractor loader boom;

an elongated bar 28, with a bar outboard end (unnumbered) and a bar inboard end (unnumbered), journaled on the elongated frame assembly 46 for rotation about a horizontal elongated bar axis (unnumbered), and wherein the elongated bar 28 extends laterally outward to one side of the mounting plate assembly 24;

a plurality of soil agitator bars 32 secured to the elongated bar 28 and spaced apart along the horizontal elongated bar axis (unnumbered) and wherein, the soil agitator bars 32 are rigid members that extend radially outward from the horizontal elongated bar axis (unnumbered) and at least some of the soil agitator bars 32 are orientated to minimize displacement of soil; and

a hydraulic motor 44 mounted on the elongated frame assembly 46 and connected to the bar inboard end (unnumbered) of the elongated bar 28 to selectively rotate the elongated bar 28 and the plurality of soil agitator bars 32 in one direction or another and agitate soil.

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Regarding claim 7, the elongated frame assembly 46 includes a front horizontal member 50, a rear horizontal member (unnumbered) that is parallel to and spaced from the front horizontal member 50, and a plurality of spacers (unnumbered) each of which is connected to the front horizontal member 50 and the rear horizontal member (unnumbered).

With respect to claim 8, the elongated bar 28 is indirectly journaled on two of the plurality of spacers (unnumbered) of the elongated frame assembly 46 for rotation about the horizontal elongated bar axis (unnumbered).

As to claim 9, the horizontal elongated bar axis (unnumbered) is parallel to the front horizontal member (unnumbered) of the elongated frame assembly 46.

Regarding claim 10, the hydraulic motor 44 is connected to a coupler assembly (unnumbered) and the coupler assembly (unnumbered) transmits torque to the bar inboard end (unnumbered) of the elongated bar 28.

The claims distinguish over Lewis et al. in requiring the hydraulic motor to be reversible.

Beeley discloses an assembly 12 that is rotated “by a pair of reversible hydraulic motors 20” (col. 3, lines 25 and 26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the hydraulic motor 44 of Lewis et al. reversible as disclosed in Beeley for greater operator control and versatility.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. in view of Beeley as applied to claims 1 and 7-10 above, and further in view of Danelson et al.

Lewis et al. show the elongated bar 28 journaled on the elongated frame assembly 46 including a pipe 28.

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Claim 4 distinguishes over Lewis et al. in requiring the pipe to be square in cross-section.

Danelson et al. show a pipe 22 or 23 that is square in cross-section.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the pipe 11 of Lewis et al. square in cross-section as shown by pipe 22 or 23 of Danelson et al. for economy in manufacture.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. in view of Beeley as applied to claims 1 and 7-10 above, and further in view of Danelson et al. and Sinykin.

Lewis et al. show a plurality of soil agitator bars 32 attached to a pipe 28.

The claims distinguish over Lewis et al. in requiring (1) the bars to be welded to the pipe and (2) the pipe to be square in cross section.

With respect to (1), Sinykin shows bars 10 welded via 12 to a pipe 11.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have attached the bars 32 of Lewis et al. to the pipe 28 of Lewis et al. with welds as shown in Sinykin for economy in manufacture.

As to (2), Danelson et al. show a pipe 22 or 23 that is square in cross-section.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the pipe 11 of Lewis et al. square in cross-section as shown by pipe 22 or 23 of Danelson et al. for economy in manufacture.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. in view of Beeley as applied to claims 1 and 7-10 above, and further in view of Sinykin.

Lewis et al. show the agitator as claimed.

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Claim 6 distinguishes over Lewis in requiring the plurality of soil agitator bars to be welded to the elongated bar.

Sinykin shows bars 10 welded via 12 to a pipe 11.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have attached the bars 32 of Lewis et al. to the pipe 28 of Lewis et al. with welds as shown in Sinykin for economy in manufacture.

Allowable Subject Matter

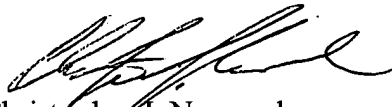
Claims 11 and 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 571-272-6993. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad
Primary Examiner
Art Unit 3671

August 11, 2005